IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Crl.Rev.Pet.No. 4149 of 2006()

CRA.431/2002 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.522/1999 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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REVN. PETITIONER/APPELLANT/ACCUSED: :

JOSE, S/O. SREEDHARAN,
PLAVILA VEEDU, V.P. VI/856,
NEAR NILEKKEMUKKU,
VAKKOM P.O., TRIVANDRUM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT::

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1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR , HIGH COURT OF KERALA, AT ERNAKULAM.

2. PUSHPALATHA, D/O. KUTTAN CHETTIYAR, QUARTERS NOS. 114, POLICE TRAINING COLLEGE, THYEADU, TRIVANDRUM.

R1 BY PUBLIC PROSECUTOR ADV. SHRI C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4149 OF 2006

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Dated this the 24th November , 2006

O R D E R

The revision petitioner was convicted for the offence under section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for three months and to pay a fine of Rs. 85,000/- and in default of payment of fine, to undergo simple imprisonment for one month. The trial court also held that out of the fine amount, a sum of Rs. 80,000/- shall be paid to the complainant by way of compensation.. The petitioner challenged the conviction and sentence in appeal. The appellate court confirmed the conviction, but modified the sentence and imposed a fine of Rs. 85,000/- and in default of payment of fine, to undergo simple imprisonment for three months. It was also held that out of the fine amount, a sum of Rs.80,000/- shall be paid to the complainant as compensation under section 357(1)(b) of the Code of Criminal Procedure

2. It is submitted by the learned counsel for the petitioner that on 17.11.2006, the petitioner was arrested and put in prison in execution of the sentence. The learned counsel also submits that the fine amount was not paid by the petitioner due to his impecunious circumstances also due to the misfortune he had to face. It is also submitted that six months' time

is required to pay the amount. Now he has already undergone imprisonment for a week in default of payment of fine.

3. Taking into account the facts and circumstances of the case , I am inclined to accept the submission made by the counsel for the petitioner to grant time to pay the fine amount. Accordingly, four months' time is granted to the petitioner to pay the fine amount. In default of payment of fine, the petitioner shall undergo imprisonment for a period of three months. In the event of default sentence being executed, the period of imprisonment already undergone by him shall be taken into account and shall be excluded. The petitioner shall be released forthwith from jail, if he is not otherwise required in connection with any other case.

The Crl. Revision Petition is dismissed subject to the grant of time to pay the fine as indicated above.

K.T. SANKARAN,
JUDGE.

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